

Program D: Risk Litigation

Program Authorization: Act 448 of 1988; Act 107 of 1999; R.S. 36:701(D) and 704(F); R.S. 39:1533(B)

PROGRAM DESCRIPTION

The mission of the Risk Litigation Program (which is organizationally expressed as the Litigation Division) is to provide legal representation for the Office of Risk Management in the Division of Administration, the Self-Insurance Fund, the State of Louisiana, and its departments, agencies, boards and commissions and their officers, officials, employees, and agents in all claims covered by the State Self-Insurance Fund, and in all tort claims whether or not covered by the Self-Insurance Fund.

The goals of the Risk Litigation Program are:

1. Provide superior legal and professional services to the Office of Risk Management.
2. Continue to develop extensive expertise in the defense of public entities, officials, and employees, and strive to retain highly competent and professional litigation staff.
3. Continue to develop programs to educate agency policy makers to recognize and correct potential liability situations.

The state's tort liability exposure is far greater than in the private sector, both in dollar amount and the variety of claims asserted; examples include: road hazard liability; public health care provider liability; legislative liability; regulatory liability; and alleged liability for illegal and/or intentionally wrongful actions of elected officials. In FY 1997-98, the Office of Risk Management paid out \$98.5 million in judgments and settlements; in FY 1998-99, \$110.4 million.

The Litigation Division is divided into five specialized, substantive law sections: Civil Rights, General Liability, Medical Malpractice, Road Hazards and Workers' Compensation. The division has five regional offices (in Alexandria, Lafayette, Lake Charles, New Orleans, and Shreveport) that handle litigation filed in the geographical area covered by the regional offices.

- The Civil Rights Section represents state officials, employees, state agencies, and the State of Louisiana in damages action litigation brought on the basis of the Civil Rights Act of 1964, as amended; state statutes dealing with employment discrimination; and prisoner suits brought pursuant to R.S. 15:1171 et seq. Defended actions also include diverse suits as Americans with Disabilities Act claims, Age Discrimination Act claims, Pregnancy Discrimination Act claims, Fair Labor Standards Act claims, and Federal Individualized Education Act (IDEA) suits. As an adjunct to Civil Rights Act suits, the section also defends claims for attorney's fees under 42 USC § 1988.
- The General Liability Section provides legal defense to the state, state agencies, and employees against tort litigation in regard to claims of personal injuries or property damages that allegedly occurred on state property or were caused by a state employee or officer.
- The Medical Malpractice Section is primarily responsible for handling malpractice cases against public health care providers (as defined by R.S. 40:1299.39).
- The Road Hazards Section provides legal defense to the Louisiana Department of Transportation and Development (DOTD) in all lawsuits for personal injury, property damage, wrongful death and business losses attendant to DOTD operations and/or conditions of DOTD roads, bridges, or other property. The section typically handles lawsuits involving maintenance, design, construction, and operations of DOTD's roads and bridges.
- The Workers' Compensation Section is responsible primarily for handling litigated workers' compensation matters filed against the state, along with providing support for other related concerns such as advice to the Office of Risk Management regarding claims and handling of settlements, as appropriate. The section is also responsible for Jones Act and maritime matters filed by state employees as well as pursuit of subrogation claims that are referred by the Office of Risk Management.

OBJECTIVES AND PERFORMANCE INDICATORS

Unless otherwise indicated, all objectives are to be accomplished during or by the end of FY 2001-2002. Performance indicators are made up of two parts: name and value. The indicator name describes what is being measured. The indicator value is the numeric value or level achieved within a given measurement period. For budgeting purposes, performance indicator values are shown for the prior fiscal year, the current fiscal year, and alternative funding scenarios (continuation budget level and Executive Budget recommendation level) for the ensuing fiscal year (the fiscal year of the budget document).

1. (KEY) To better utilize the funds available to the Office of Risk Management for legal expenses by handling in-house at least 78% of risk litigation cases opened during the fiscal year.

Strategic Link: This operational objective is an incremental step toward accomplishment of the program's Strategic Objective I.1: *To better utilize the funds available to the Office of Risk Management for legal expenses by increasing the percentage of all risk litigation cases handled in-house to 90% by June 30, 2003.*

Louisiana: Vision 2020 Link: Not applicable

Children's Cabinet Link: Not applicable

Other Link(s): Not applicable

L E V E L	PERFORMANCE INDICATOR NAME	PERFORMANCE INDICATOR VALUES					
		YEAREND PERFORMANCE STANDARD FY 1999-2000	ACTUAL YEAREND PERFORMANCE FY 1999-2000	ACT 11 PERFORMANCE STANDARD FY 2000-2001	EXISTING PERFORMANCE STANDARD FY 2000-2001	AT CONTINUATION BUDGET LEVEL FY 2001-2002	AT RECOMMENDED BUDGET LEVEL FY 2001-2002
K	Percentage of new risk litigation cases handled in-house	80%	82%	80%	80%	78% ²	78% ²
S	Number of continuing legal education (CLE) hours ¹ provided	15	15	15	15	15	15
S	Percentage of required CLE provided	100%	99%	100%	100%	100%	100%

¹ Fifteen hours of continuing legal education each calendar year are required by the Louisiana Bar Association.

GENERAL PERFORMANCE INFORMATION: RISK LITIGATION, ALL CASES

FISCAL YEAR	ALL CASES IN LITIGATION			CASES ASSIGNED TO PRIVATE CONTRACT ATTORNEYS					CASES HANDLED BY THE LITIGATION DIVISION						
	NUMBER OF CASES	LEGAL FEES AND EXPENSES (In \$ Millions)	AVERAGE COST PER CASE	NUMBER OF CASES	PERCENT OF TOTAL CASES	LEGAL FEES AND EXPENSES (In \$ Millions)	PERCENT OF TOTAL FEES	AVERAGE COST PER CASE	NUMBER OF CASES	PERCENT OF TOTAL CASES	TOTAL EXPENDI- TURES (In \$ Millions)	PERCENT OF TOTAL FEES	AVERAGE COST PER CASE	NUMBER OF TRIAL ATTOR- NEYS	AVERAGE CASE LOAD
89-90	5,057	\$13.44	\$2,658	2,364	47%	\$10.83	81%	\$4,581	2,693	53%	\$2.61	19%	\$969	30	89.8
90-91	5,947	\$16.56	\$2,785	3,755	63%	\$13.65	82%	\$3,635	2,192	37%	\$2.91	18%	\$1,328	30	73.1
91-92	6,823	\$20.06	\$2,940	4,647	68%	\$17.10	85%	\$3,680	2,176	32%	\$2.96	15%	\$1,360	30	72.5
92-93	7,000	\$22.83	\$3,261	4,000	57%	\$20.13	88%	\$5,033	3,000	43%	\$2.70	12%	\$900	30	100.0
93-94	7,430	\$22.83	\$3,073	3,501	47%	\$19.63	86%	\$5,607	3,929	53%	\$3.20	14%	\$814	45	87.3
94-95	6,708	\$14.90	\$2,221	2,343	35%	\$9.50	64%	\$4,055	4,365	65%	\$5.40	36%	\$1,237	68	64.2
95-96	7,250	\$16.79	\$2,316	2,000	28%	\$8.50	51%	\$4,250	5,250	72%	\$8.29	49%	\$1,579	69	76.1
96-97	6,241	\$17.64	\$2,826	1,490	24%	\$9.74	55%	\$6,537	4,751	76%	\$7.90	45%	\$1,663	69	68.9
97-98	6,281	\$16.20	\$2,579	1,612	26%	\$7.98	49%	\$4,950	4,669	74%	\$8.22	51%	\$1,761	71	65.8
98-99	6,169	\$17.12	\$2,775	1,229	20%	\$8.08	47%	\$6,574	4,940	80%	\$9.04	53%	\$1,830	71	69.6
99-00	4,813	\$21.50	\$4,469	1,001	21%	\$11.40	53%	\$11,369	3,812	79%	\$10.10	47%	\$2,657	71	53.7

**GENERAL PERFORMANCE INFORMATION: RISK LITIGATION, NEW CASE
ASSIGNMENTS**

FISCAL YEAR	TOTAL NUMBER OF NEW CASES ASSIGNED	NUMBER OF NEW CASES ASSIGNED TO CONTRACT ATTORNEYS	NUMBER OF NEW CASES ASSIGNED TO LITIGATION ATTORNEYS	PERCENTAGE OF NEW CASES ASSIGNED TO CONTRACT ATTORNEYS	PERCENTAGE OF NEW CASES ASSIGNED TO IN-HOUSE ATTORNEYS
93-94	1,830	142	1,688	7.8%	91.2%
94-95	1,878	243	1,635	12.9%	87.1%
95-96	2,189	209	1,980	9.6%	90.5%
96-97	1,860	213	1,647	11.5%	88.6%
97-98	1,862	266	1,596	14.3%	85.7%
98-99	1,541	336	1,205	21.8%	78.2%
99-00	1,688	299	1,389	17.7%	82.3%

RESOURCE ALLOCATION FOR THE PROGRAM

	ACTUAL 1999 - 2000	ACT 11 2000 - 2001	EXISTING 2000 - 2001	CONTINUATION 2001 - 2002	RECOMMENDED 2001 - 2002	RECOMMENDED OVER/(UNDER) EXISTING
MEANS OF FINANCING:						
STATE GENERAL FUND (Direct)	\$0	\$0	\$0	\$0	\$0	\$0
STATE GENERAL FUND BY:						
Interagency Transfers	0	0	0	0	0	0
Fees & Self-gen. Revenues	10,106,356	10,702,672	10,704,156	10,721,492	10,721,492	17,336
Statutory Dedications	0	0	0	0	0	0
Interim Emergency Board	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
TOTAL MEANS OF FINANCING	<u><u>\$10,106,356</u></u>	<u><u>\$10,702,672</u></u>	<u><u>\$10,704,156</u></u>	<u><u>\$10,721,492</u></u>	<u><u>\$10,721,492</u></u>	<u><u>\$17,336</u></u>
EXPENDITURES & REQUEST:						
Salaries	\$7,373,357	\$7,662,405	\$7,662,405	\$7,662,405	\$7,962,343	\$299,938
Other Compensation	46,795	65,000	65,000	65,000	65,000	0
Related Benefits	1,243,420	1,370,854	1,370,854	1,370,854	1,070,916	(299,938)
Total Operating Expenses	1,038,067	1,012,516	1,012,516	1,037,936	1,037,936	25,420
Professional Services	30,175	21,375	21,375	21,375	21,375	0
Total Other Charges	92,522	147,922	147,922	147,922	147,922	0
Total Acq. & Major Repairs	282,020	422,600	424,084	416,000	416,000	(8,084)
TOTAL EXPENDITURES AND REQUEST	<u><u>\$10,106,356</u></u>	<u><u>\$10,702,672</u></u>	<u><u>\$10,704,156</u></u>	<u><u>\$10,721,492</u></u>	<u><u>\$10,721,492</u></u>	<u><u>\$17,336</u></u>
AUTHORIZED FULL-TIME EQUIVALENTS: Classified	0	0	0	0	0	0
Unclassified	180	180	180	180	170	(10)
TOTAL	<u><u>180</u></u>	<u><u>180</u></u>	<u><u>180</u></u>	<u><u>180</u></u>	<u><u>170</u></u>	<u><u>(10)</u></u>

SOURCE OF FUNDING

This program is funded with Fees and Self-generated Revenues. Fees and Self-generated Revenues are derived from the Office of Risk Management for investigative and legal services.

ANALYSIS OF RECOMMENDATION

GENERAL FUND	TOTAL	T.O.	DESCRIPTION
\$0	\$10,702,672	180	ACT 11 FISCAL YEAR 2000-2001
			BA-7 TRANSACTIONS:
\$0	\$1,484	0	Carry forward BA-7 or acquisitions not received timely
\$0	\$10,704,156	180	EXISTING OPERATING BUDGET – December 15, 2000
\$0	\$299,938	0	Unclassified State Employees Merit Increases for FY 2001-2002
\$0	\$416,000	0	Acquisitions & Major Repairs
\$0	(\$422,600)	0	Non-Recurring Acquisitions & Major Repairs
\$0	(\$1,484)	0	Non-Recurring Carry Forwards
\$0	(\$299,938)	0	Salary Funding from Other Line Items
\$0	\$25,420	0	Other Adjustments
\$0	\$0	(10)	Other Technical Adjustment transferring positions to the required programs
\$0	\$10,721,492	170	TOTAL RECOMMENDED

The total means of financing for this program is recommended at 100.2% of the existing operating budget. It represents 96.9% of the total request (\$11,061,935) for this program. At the recommended level of funding this program should be able to provide the same level of services.

PROFESSIONAL SERVICES

\$21,375 To be determined, additional contract services deemed required to carry out mission of the department

\$21,375 TOTAL PROFESSIONAL SERVICES

OTHER CHARGES

\$30,940 Purchasing and procurement position
\$22,700 Court reporters, travel of witness, etc.

\$53,640 SUB-TOTAL OTHER CHARGES

Interagency Transfers:

\$94,282 Building and grounds, maintenance of Education Building

\$94,282 SUB-TOTAL INTERAGENCY TRANSFERS

\$147,922 TOTAL OTHER CHARGES

ACQUISITIONS AND MAJOR REPAIRS

\$105,000 Replacement of Library Reference materials
\$311,000 Replacement of data processing and various office equipment

\$416,000 TOTAL ACQUISITIONS AND MAJOR REPAIRS